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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 90-67-S - ORDER NO. 90-437 ✓  
APRIL 12, 1989

IN RE: Petition of Klaus Wilke and McGregor ) ORDER  
Downs Mobile Home Park for a Declaratory ) GRANTING  
Order Seeking Review of Rates and ) HEARING  
Charges of Midlands Utility. )

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Petition filed on January 24, 1990, on behalf of Klaus Wilke and McGregor Downs Mobile Home Park (the Petitioners) seeking a declaratory order from the Commission to allow Mr. Wilke and the mobile home park to seek a review of the rates of Midlands Utility concerning mobile home service in an area soon to be served by Midlands Utility.

The Petition alleges that Mr. Wilke owns McGregor Downs Mobile Home Park and presently operates a sewer treatment plant for the residents of the mobile home park. According to the Petition, the Regional Section 208 Plan requires Mr. Wilke to connect his mobile home park system to Midlands Utility for eventual treatment of the wastewater by the Cayce wastewater treatment plant. Mr. Wilke and Midlands Utility attempted to negotiate a rate but, according to the Petition, were unsuccessful. Midlands seeks to charge the same

rate to the mobile home park that it presently charges all of its residential customers as approved by the Commission. According to the Petition, even though Mr. Wilke and his mobile home park have not signed a contract for service with Midlands, the mobile home park will be required to tie-on to Midlands Utility within ninety (90) days from completion of the line. The Petition therefore requests that Mr. Wilke and the mobile home park be afforded the opportunity to be heard on this issue.

On March 15, 1990, the Commission received the Answer of Midlands Utility in this matter. The Answer of Midlands admits that it intends to charge Mr. Wilke and the mobile home park the same rates and charges approved by the Commission for residential sewer service. The Answer also requests that the Commission, pursuant to its Rules of Practice and Procedure, dismiss the Petition for lack of jurisdiction over the subject matter because neither Mr. Wilke nor the mobile home park is a customer of Midlands. The Commission has determined, based upon the allegations contained in the Petition and in the Answer of Midlands Utility, that in fact, Midlands had negotiated with Mr. Wilke and the mobile home park for a rate and that they were unable to successfully negotiate to both parties' satisfaction. Because the two parties have negotiated, the Commission finds that it does have jurisdiction, pursuant to R.103-541 of the Commission's Rules and Regulations. This rule requires the approval of the Commission of

any contract entered into by a utility which would "impact, pertain to, or effect said utility's fitness, willingness, or ability to provide sewer service, including but not limited to the collection or treatment of said sewerage...." Because the parties entered into negotiations, the Commission obtained jurisdiction over Mr. Wilke and the mobile home park. Because Midlands entered into negotiations with Mr. Wilke and McGregor Downs Mobile Home Park, it is estopped to assert that the Commission has no jurisdiction over a party that it sought to contract with for sewer services.

Midlands also asserts that the Petition should be dismissed in that pursuant to R.103-836(A)(2) that a Petition for Declaratory Order is used to determine the applicability of any statute or of any rule or order of the Commission. Midlands asserts that the relief requested by the Petitioner, is a request to determine the reasonableness of rates and charges previously established for Midlands by the Commission. The Commission finds that this request by the Petitioner comes within the purview of the Commission pursuant to R.103-836(A)(2). The Petitioner is requesting the applicability of the Commission's approval of a particular rate by of a previous Commission Order. The Commission finds that this is a proper Petition for Declaratory Order.

Midlands next asserts that the request for waiver of unspecified rules and regulations by Mr. Wilke and the mobile home park should be denied because the Commission cannot waive matters

of jurisdiction or standing and that such waiver request does not adequately set forth the specific rules and regulations to be waived. The Commission has determined that the Petitioners have standing to bring this matter and that the Commission has jurisdiction. Therefore, no waiver of any rule is required.

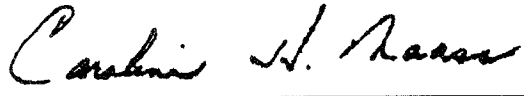
As to the last request of Midlands, that the Petition should be dismissed because the Petitioner lacks standing to seek a review of the rates and charges of Midlands because the Petitioner is not a customer, the Commission has already determined that because the parties entered into negotiations, that the Petitioner has standing to seek a review even though presently, the Petitioner is not a customer but will be in the near future.

After ruling on the above referenced motions of Midlands, the Commission is determined that as set forth herein, said Motion should be denied. The Commission has determined that a hearing should be held for review of the issues relating to the provision of sewer service to Klaus Wilke and McGregor Downs Mobile Home Park by Midlands Utility. The Commission will review the rates and charges of Midlands for the provision of sewer service to residential customers. The Commission has determined that a hearing shall commence at 2:30 p.m. on Wednesday, July 11, 1990,

in the Commission's Hearing Room, 111 Doctors Circle, Columbia,  
South Carolina.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:

  
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Chairman

ATTEST:

  
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Deputy Executive Director

(SEAL)